



DEPARTMENT OF LAW
CITY OF CHICAGO

February 8, 2017

BY ELECTRONIC AND U.S. MAIL

David G. Sigale
Law Firm of David. G. Sigale, P.C.
799 Roosevelt Road, Suite 207
Glen Ellyn, Illinois 60137

Re: *Second Amendment Arms, et al. v. City of Chicago*, No. 10 C 4257

Dear David:

Pursuant to the Court's direction to the City at the status in the above-referenced case on January 26, 2017, the City provides you with the following information regarding (i) the ownership of 415 W. Armitage Avenue (the "Property"); and (ii) the denial of Plaintiff R. Joseph Franzese's application for a business license at the Property.

1. Ownership of 415 W. Armitage

By conducting a search of the Cook County of Recorder of Deeds' publicly available records, the City has determined that the Property (PIN 14-33-307-004-0000) was owned by John Scott at the time Franzese submitted his application on July 2, 2010. The Recorder's records show that Douglas Drazek executed a warranty deed to John Scott on January 8, 2009, and John Scott subsequently executed a deed in trust to Chad Emigholz, Trustee, on October 16, 2013. *See* Deeds dated January 8, 2009 and October 16, 2013, attached hereto as Exhibit A. The City therefore did not have any ownership interest in the Property when Franzese filed his application.

The City also confirms that it was not leasing the property from Mr. Scott at the time of the application. The City's Department of Fleet and Facility Management maintains all leases, and it confirms that the City has never entered into a lease for the Property. The City will provide an affidavit if required by the Court.

2. Denial of July 2, 2010 Application for a Business License

With respect to the denial of Franzese's application for a business license, the City cannot locate any written record that it notified Franzese that his application was denied for failure to

David G. Sigale
February 8, 2017
Page 2

meet the zoning requirements, but documents produced in discovery demonstrate that Franzese was aware of the denial and canceled his application.

On July 2, 2010, Franzese submitted his application for a business license on the Property to the City of Chicago's Department of Business Affairs and Consumer Protection ("BACP") using BACP's on-line application system. *See* Receipt, a copy of which was tendered to the City by Plaintiffs, attached hereto as Exhibit B; BACP Printout of Application Activity (CITY 000848), attached hereto as Exhibit C. As the Receipt states under the section "What Happens Next," "[o]nce the Zoning Classification Review and listed business owner(s) verification have been completed, and if applicable, all of the required documents have been submitted as well, then a 'Business Location Review Complete' e-mail will be sent to you with instructions to proceed with 'Part II' of the application." Ex. B. The Receipt further states that the review may take up to seven business days, and that "to find out the status of the application, at any time," the applicant can visit the "My Overview" page. *See* Ex. B.

According to the BACP Printout, the City determined on July 2, 2010, that the application did not meet the zoning requirements. *See* Ex. C. The Zoning Department determined that business activity on the Property was not permitted and returned the application back to the BACP queue. We could not locate a written record that BACP notified Franzese that his application was denied for failure to meet zoning requirements.

Although the City maintains that the existence of a written denial is irrelevant to resolution of its motion for summary judgment, the records produced in discovery demonstrate that the City informed Franzese of the denial of his application. First, the BACP Printout states that on January 30, 2012, the application was "[c]ancelled on customer request."¹ Ex. C. Second, in an e-mail dated February 10, 2011, Judith Bender of the U.S. Department of Justice informed Rose Kelly, a City attorney, that "[i]n a telephone conversation some months ago with Mr. Franzese, he stated to me that the City of Chicago had denied his application for a business license. Can you confirm this? And if so, was it done by letter of which I can get a copy?" *See* Emails between Bender and Kelly, attached as Exhibit D. Ms. Kelly responded on February 16, 2011: "Mr. Franzese applied for a limited business license at 415 W. Armitage. After being reviewed by the city's zoning department, Mr. Franzese was advised that that location was not zoned for business use and the license application did not meet the zoning approval requirement." *Id.* For these reasons, and plain common sense, there can be no question but that

¹ This fact is telling and provides an additional reason why Franzese lacks standing. Either Franzese knew of the denial and cancelled the application, or he did not know of the denial and voluntarily withdrew the application, choosing not to proceed for another reason.

David G. Sigale
February 8, 2017
Page 3

Franzese was aware of the denial of his application.

Sincerely,

A handwritten signature in blue ink, appearing to read 'WMA', with a long horizontal line extending to the right.

William Macy Aguiar

Enclosures

cc: David M. Baron
Ellen W. McLaughlin

First American Title

Order #

1470604 1082

WARRANTY DEED

THE GRANTOR(S), Douglas A. Drazek and Danell M. Drazek, husband and wife, of the County of Cook, State of Illinois for and in consideration of Ten (\$10.00) and other good and valuable consideration in hand paid CONVEY(S) AND WARRANTS to



Doc#: 0900835012 Fee: \$62.00
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 01/08/2009 09:28 AM Pg: 1 of 3

John Scott, OF 1847 Asbury Ave
Evanston, IL 60201

the real estate described in Exhibit "A" made a part of this instrument situated in the County of Cook, State of Illinois.

Commonly known as: 415 W. Armitage,
Chicago, IL 60614

P.I.N.: 14 33 307 004

Hereby releasing and waiving all rights under and by virtue of the Homestead Exemption Laws of the State of Illinois. To have and to hold said premises forever subject to covenants and restrictions of record.

Dated this date: Dec 22, 2008

Douglas A. Drazek

Danell M. Drazek

State of Illinois

S.S.

County of Cook

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Douglas A. Drazek and Danell M. Drazek personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person, and acknowledge that they signed and sealed and delivered the said instrument as their free and voluntary act for the uses and purposes therein set forth including the release and waiver of the right of Homestead.

Given under my hand and official seal, this 22 day of Dec., 2008

Notary Public



This instrument prepared by Joseph J. Putnick, 161 W. Harrison St. Chicago, IL 60605

Mail to: Mark W. Chu, Esq.
111 S. Michigan
Chicago IL 60603

Send Tax Bill To: John Raff
1847 Asbury
Evanston, IL 60201

EXHIBIT A

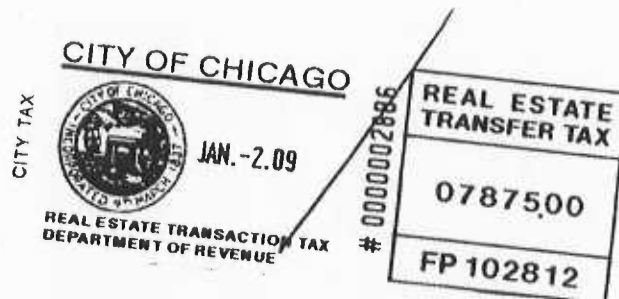
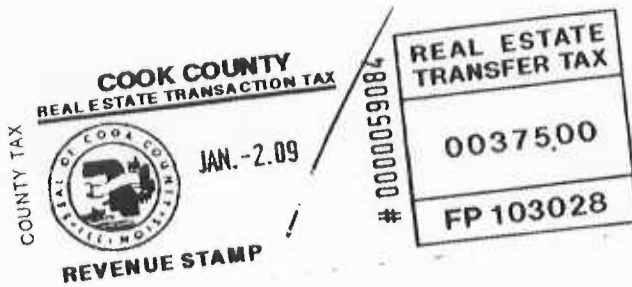
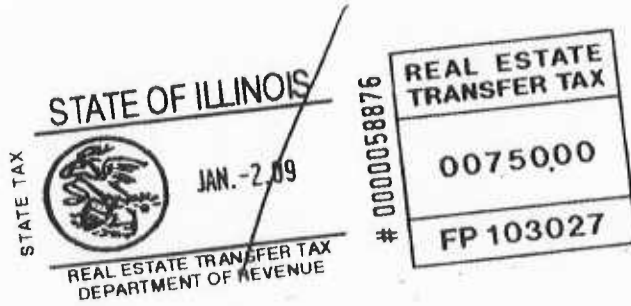


EXHIBIT A

LEGAL DESCRIPTION

Legal Description: SUB LOT 5 IN THE SUBDIVISION OF LOTS 46, 47, 48, 49 AND 50 IN BLOCK 40 IN CANAL TRUSTEE'S SUBDIVISION OF PART OF SECTION 33, TOWNSHIP 40 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Permanent Index #'s: 14-33-307-004-0000 Vol. 0495

Property Address: 415 W. Armitage Ave, Chicago, Illinois 60614

RETURN TO:

Edward F. Dean, Esq.
17 East Crystal Lake Avenue
Crystal Lake, IL 60014

SEND SUBSEQUENT TAX BILLS:

Chad C Emigholz, Trustee
415 West Armitage
Chicago, Illinois 60614



Doc#: 1328942069 Fee: \$42.00
RHSP Fee: \$9.00 RPRF Fee: \$1.00
Karen A. Yarbrough
Cook County Recorder of Deeds
Date: 10/16/2013 10:23 AM Pg: 1 of 3

(This Space for Recorder's Use Only)

DEED IN TRUST

ILLINOIS

THE GRANTOR, JOHN SCOTT, an unmarried person, of the City of Chicago of the County of Cook and State of Illinois for and in consideration of Ten and No/100 Dollars, and other good and valuable considerations in hand paid, Conveys and Warrants unto: Chad C Emigholz, 5612 Prairie Ridge Road, Crystal Lake, IL 60014, as Trustee under the provisions of a trust agreement known as **THE CHAD C EMIGHOLZ LIVING TRUST UNDER AGREEMENT DATED OCTOBER 27, 2007**, (hereinafter referred to as said "trustee" regardless of the number of trustees) and unto all and every successor or successors in trust under said trust agreement, the following described real estate in the County of Cook and State of Illinois, to wit:

SEE LEGAL DESCRIPTION ATTACHED HERETO AS EXHIBIT A

*Chad C. Emigholz, Trustee, as
together with the tenements, hereditaments and appurtenances thereunto belonging or in any wise appertaining.
Subject to real estate taxes for 2013 and subsequent years and to conditions and restrictions of record.

Permanent Real Estate Index Number:
Address of Real Estate:

14-33-307-004-0000
415 West Armitage, Chicago, Illinois 60614
AVE

TO HAVE AND TO HOLD the said premises with the appurtenances upon the trusts and for the uses and purposes herein and in said trust agreement set forth.

Full power and authority are hereby granted to said trustee to improve, manage, protect and subdivide said premises or any part thereof: to dedicate parks, streets, highways or alleys; to vacate any subdivision or part thereof, and to resubdivide said property as often as desired; to contract to sell; to grant options to purchase; to sell on any terms; to convey either with or without consideration; to covey said premises or any part thereof to a successor or successors in trust and to grant to such successor or successors in trust all of the title, estate, powers and authorities vested in said trustee; to donate, to dedicate, to mortgage, pledge or otherwise encumber said property, or any part thereof; to lease said property, or any part thereof, from time to time, in possession or reversion, by leases to commence in praesenti or in futuro, and upon any terms and for any period or periods of time, not exceeding in the case of any single demise the term of 198 years, and to renew or extend leases upon any terms and for any period or periods of time and to amend, change or modify leases and the terms and provisions thereof at any time or times hereafter; to contract to make leases and to grant options to lease and options to renew leases and options to purchase the whole or any part of the reversion and to contract respecting the manner of fixing the amount of present or future rentals; to partition or to exchange said property, or any part thereof, for other real or personal property; to grant easements or charges of any kind; to release, convey or assign any right, title or interest in or about or easement appurtenant to said premises or any part thereof; and to deal with said property and every part thereof in all other ways and for such

1SELLER-1TRUST

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other considerations as it would be lawful for any person owning the same to deal with the same, whether similar to or different from the ways above specified, at any time or times hereafter.

In no case shall any party dealing with said trustee in relation to said real estate, or to whom said premises or any part thereof shall be conveyed, contracted to be sold, leased or mortgaged by said trustee, be obliged to see to the application of any purchase money, rent or money borrowed or advanced on said real estate, or be obliged to see that the terms of this trust have been complied with, or be obliged to inquire into the necessity or expediency of any act of said trustee, or be obliged or privileged to inquire into any of the terms of said trust agreement; and every deed, trust deed, mortgage, lease or other instrument executed by said trustee in relation to said real estate shall be conclusive evidence in favor of every person relying upon or claiming under any such conveyance, lease or other instrument, (a) that at the time of the delivery thereof the trust created herein and by said trust agreement was in full force and effect; (b) that such conveyance or other instrument was executed in accordance with the trusts, conditions and limitations contained in this Indenture and in said trust agreement or in some amendment thereof and binding upon all beneficiaries thereunder; (c) that said trustee was duly authorized and empowered to execute and deliver every such deed, trust deed, lease, mortgage or other instrument; and (d) if the conveyance is made to a successor or successors in trust, that such successor or successors in trust have been properly appointed and are fully vested with all the title, estate, rights, powers, authorities, duties and obligations of its, his or their predecessor in trust.

The interest of each and every beneficiary hereunder and of all persons claiming under them or any of them shall be only in the earnings, avails and proceeds arising from the sale or other disposition of said real estate, and such interest is hereby declared to be personal property, and no beneficiary hereunder shall have any title or interest, legal or equitable, in or to said real estate as such, but only an interest in the earnings, avails and proceeds thereof as aforesaid.

If the title to any of the above lands is now or hereafter registered, the Registrar of Titles is hereby directed not to register or note in the certificate of title or duplicate thereof, or memorial, the words "in trust," or "upon condition," or "with limitations," or words of similar import, in accordance with the statute in such case made and provided.

And the said grantor hereby expressly waives and releases any and all right or benefit under and by virtue of any and all statutes of the State of Illinois, providing for the exemption of homesteads from sale on execution or otherwise.

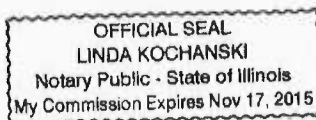
IN WITNESS WHEREOF, the grantor aforesaid has hereunto set his hand and seal this 29 day of August, 2013.

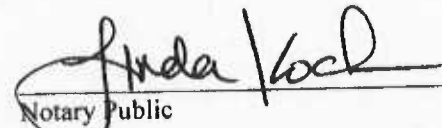

JOHN SCOTT

State of Illinois, County of Cook, ss.

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that JOHN SCOTT, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person, and acknowledged that he signed, sealed and delivered the said instrument as a free and voluntary act, for the uses and purposes therein set forth, including the release and waiver of the right of homestead.

Given under my hand and official seal, this 29 day of August, 2013.




Notary Public

This instrument was prepared by:


Martin Cohn, 116 South Michigan, Chicago, IL 60603 (312) 372-3458


EXHIBIT A**LEGAL DESCRIPTION**

SUBLOT 5 IN THE SUBDIVISION OF LOTS 46, 47, 48, 49 AND 50 IN BLOCK 40 IN CANAL TRUSTEE'S SUBDIVISION OF PART OF SECTION 33, TOWNSHIP 40 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Permanent Real Estate Index Number: 14-33-307-004-0000
 Address of Real Estate: 415 West Armitage, Chicago, Illinois 60614

REAL ESTATE TRANSFER		09/13/2013
	COOK	\$389.50
	ILLINOIS:	\$779.00
	TOTAL:	\$1,168.50
14-33-307-004-0000 20130801601309 XZX0NH		

REAL ESTATE TRANSFER		09/13/2013
	CHICAGO:	\$5,842.50
	CTA:	\$2,337.00
	TOTAL:	\$8,179.50
14-33-307-004-0000 20130801601309 Y0TP59		



CITY OF CHICAGO
BUSINESS AFFAIRS &
CONSUMER PROTECTION

Norma I. Reyes, Commissioner

[My Overview](#) [User Guide](#) [FAQ](#) [Contact Us](#)

Welcome back, **franzeserj1**. [[Edit User Profile](#) , [Log Out](#)]

1. Part I - Location & Activity 2. Part I - Questions & Answers 3. Part I - Ownership 4. Part I - Summary & Review

Application # 7270 has been successfully submitted

Congratulations on completing "Part I" of the City of Chicago online business license application.

At Your Service

Please print this page for your records. A confirmation notice will be sent to you, via e-mail, shortly.

Application Information

User Profile Name: reid j franzese
Application/Confirmation Number: 7270
Legal Business Name: reid j franzese
Doing Business As (DBA) Name: second amendment arms
Business Location Address: 415 W. ARMITAGE AVE, Floor 1, Chicago, IL 60614



What Happens Next

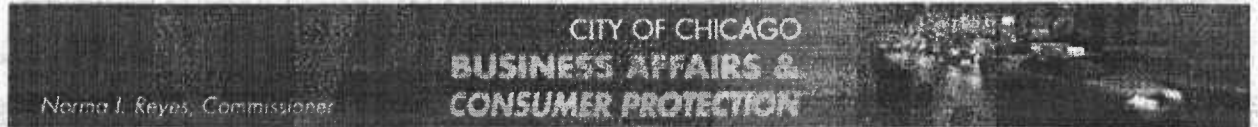
- 1 The application has been submitted for Zoning Classification Review as of 07/02/2010 at 06:50 AM. Please remember that changes to the application are no longer permissible.
- 2 Once the Zoning Classification Review and listed business owner(s) verification have been completed, and, if applicable, all of the required documents have been submitted as well, then a "Business Location Review Complete" e-mail will be sent to you with instructions to proceed with "Part II" of the application.
- 3 The review and verification process may take several hours during a business day, or up to seven business days if further review is required. To find out the status of the application, at any time, please visit your [My Overview](#) page.

Should you have any questions, please feel free to [Contact Us](#). Thank you for using the City of Chicago Online License Application System.

- Department of Business Affairs and Consumer Protection

License Application System

Page 1 of 1



[My Overview](#)

[User Guide](#)

[FAQ](#)

[Contact Us](#)

Welcome back, franzeserj1. ([Edit User Profile](#), [Log Out](#))

[1. Part I - Location & Activity](#)

[2. Part I - Questions & Answers](#)

[3. Part I - Ownership](#)

[4. Part I - Summary & Review](#)

Application # 7270 has been successfully submitted

Congratulations on completing "Part I" of the City of Chicago online business license application.

At Your Service

Please print this page for your records. A confirmation notice will be sent to you via e-mail

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	APPL_ST	APPLA	APPL_ST	STATE_C	STATE_CHANGE_D	LIST_IND	
	G_ID	TION_ID	ATE_CDE_BY	T_TM	EX	COMMENTS	
1	38,967	7,270	RESEARCH	07/02/2010 06:36:03	1		
2	38,968	7,270	SUBMITTED	07/02/2010 06:50:54	2		
3	38,969	7,270	ZONING REVIEW	07/02/2010 06:50:54	3		
4			PENDING				
5	38,981	7,270	CATION	18233	07/02/2010 09:35:21	4	This address is zoned RM-5 and does not permit this business activity. No prior license history at this location.
6	80,253	7,270	CANCELLED		01/30/2012 10:48:53	5	Cancelled on customer request
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Sheet 1

EXHIBIT C

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1	D_BY	07/02/2010 06:36:03	LICWEBT	07/02/2010 06:36:03	LICWEBT	1										
2	LICWEBT	07/02/2010 06:50:54	LICWEBT	07/02/2010 06:50:54	LICWEBT	1										
3	LICWEBT	07/02/2010 06:50:54	LICWEBT	07/02/2010 06:50:54	LICWEBT	1										
4	LICWEBT	07/02/2010 06:50:54	LICWEBT	07/02/2010 06:50:54	LICWEBT	1										
5	LICWEBT	07/02/2010 09:35:21	LICWEBT	07/02/2010 09:35:21	LICWEBT	1										
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From: Kelly, Rose
Sent: Wednesday, February 16, 2011 11:11 AM
To: Bender, Judith M.
CC: Scouffas, Nicholas S., Sr.; Reyes, Norma; Riedle, Shellie; Dombai, Thomas
Subject: RE: Application for Federal Firearms License from Reid Joseph Franzese

Hello Ms. Bender

Mr. Franzese applied for a limited business license at 415 West Armitage. After being reviewed by the city's zoning department, Mr. Franzese was advised that that location was not zoned for business use and the license application did not meet the zoning approval requirement.

Let me know if you need any further information.

Thanks

M. Rose Kelly
Senior Counsel
Department of Law
City of Chicago
312 744-8698

From: Bender, Judith M. [Judith.M.Bender@usdoj.gov]
Sent: Thursday, February 10, 2011 2:34 PM
To: Kelly, Rose
Cc: Scouffas, Nicholas S., Sr.
Subject: RE: Application for Federal Firearms License from Reid Joseph Franzese

Ms. Kelly

Thank you for the below information, it is exactly what I needed.

I have one other question. In a telephone conversation some months ago with Mr. Franzese, he stated to me that the City of Chicago had denied his application for a business license. Can you confirm this? And if so, was it done by letter of which I can get a copy? Thank you once again.

Judy Bender



From: Kelly, Rose [mailto:rose.kelly@cityofchicago.org]
Sent: Monday, January 31, 2011 5:24 PM
To: Bender, Judith M.
Cc: Scouffas, Nicholas S., Sr.; Forti, Michael; Georges, Mara; Solomon, Benna
Subject: RE: Application for Federal Firearms License from Reid Joseph Franzese

Dear Ms. Bender:

Section 8-20-100 of the Municipal Code of Chicago prohibits the sale or transfer of firearms and ammunition, except under very limited conditions. Specifically, section 8-20-100 states as follows:

8-20-100 Permissible sales and transfers of firearms and ammunition.

(a) Except as authorized by subsection (e) and section 2-84-075, no firearm may be sold, acquired or otherwise transferred within the city, except through inheritance of the firearm.

(b) No ammunition may be sold or otherwise transferred within the city, except through a licensed weapons dealer, or as otherwise allowed by this code.

(c) No firearm or ammunition shall be security for, or be taken or received by way of any mortgage, deposit, pledge or pawn.

(d) No person may loan, borrow, give or rent to or from another person, any firearm or ammunition except in accordance with this chapter.

(e) Notwithstanding any other provision of this section, a peace officer may sell or transfer any lawfully held firearm or ammunition to another peace officer in accordance with the other provisions of this chapter.

Therefore, no person would be issued a business license for the sale of firearms in the city. This is further supported by Chapter 4-144 of the Code, which licenses weapons dealers. Section 4-144-010 of the licensing chapter requires that any person who wishes to sell a deadly weapon (which, in the definition, includes a firearm) must first obtain a business license to do so. However, that same section also prohibits the licensee, as follows:

"It shall be unlawful for any person licensed under this chapter to engage in the business of selling, or sell, give away or otherwise transfer, any firearm as that term is defined in Section 8-20-010." Chgo. Muni Code, 4-144-010. (Emphasis added).

Pursuant to these two sections, the City would not issue a business license to anyone at any location in the city for the sale of firearms. The city is willing to send a represent to testify to this information.

If you need any further information, please do not hesitate to contact us.

M. Rose Kelly
Senior Counsel
Department of Law
City of Chicago
312 744-8698

From: Bender, Judith M. [Judith.M.Bender@usdoj.gov]
Sent: Monday, January 31, 2011 3:48 PM
To: Kelly, Rose
Cc: Scouffas, Nicholas S., Sr.
Subject: Application for Federal Firearms License from Reid Joseph Franzese

Hello, Ms. Kelly
My supervisor and I met with you at your office a few months ago regarding the firearms license application from Reid Joseph Franzese with a proposed business premises of 415 West Armitage, Chicago, Illinois. Since that time, we have limited contact with Mr. Franzese or his attorney.

As we stated in our meeting, we can hold off on the application process for a time, but not indefinitely. I spoke with Mr. Franzese this morning and he indicated that the City of Chicago has attempted on at least two occasions to have his case thrown out of court, with negative results. He expects a trial date to be set this week.

If this is in fact true, this is some progress, which is what we need to see to suspend the application process for a time. What we are asking of you and your office is whether or not you will deny a business license to operate a firearms shop to Mr. Franzese at ANY address within the City of Chicago; whether your office (representative) will testify at a hearing to this denial; and whether you can provide this information to us in writing (preferably in letter form). If so, we can act on the application once we receive that documentation from you.

Due to the weather predictions, our office will most likely be sparsely staffed the next two days, but I can be reached on the below cell number and my supervisor, Nick Scouffas, can be reached on his cell number 630-688-6405. Thank you for your prompt reply.

Judy Bender
Industry Operations Investigator
Downers Grove III Field Office
Office: (630) 725-5332
FAX: (630) 725-5329
Cell: (630) 688-6455



Oh what a tangled web we weave, when first we practice to deceive!

******* NOTICE: This e-mail message and any attached files are intended solely for the use of the addressee(s) named above in connection with official business. This communication may contain Controlled Unclassified Information that may be statutorily or otherwise prohibited from being released without appropriate approval. Any review, use, or dissemination of this e-mail message and any attached file(s) in any form outside of ATF or the Department of Justice without express authorization is strictly prohibited.**

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